

<sup>1</sup> On page 6 of its August 23, 2007 Order, the Court mistakenly referred to Mr. Thomas as Mr. Thompson. The Court apologizes for this inadvertent reference.

there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.”

The court has reviewed the record before it. In this case, Plaintiffs are alleging that Defendants have failed to pay benefits into the fund for Messrs. Rader and Thomas.<sup>2</sup> The parties have presented conflicting testimony, through deposition testimony or affidavits, which give rise to genuine issues of material fact such that summary judgment is not appropriate at this time.

Accordingly,

**IT IS HEREBY ORDERED** that Plaintiffs’ Renewed Motion for Summary Judgment, [Doc. No. 39], is denied.

Dated this 11th day of October, 2007.



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HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> Summary Judgment has previously been entered in favor of Plaintiffs as to other employees of Defendants. Defendants did not dispute that such payments were required. See Opinion, Memorandum and Order dated August 23, 2007.